

**Internal Revenue Service**

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Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

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Refer Reply To:  
CC:CORP:2  
PLR-114201-20

Date:  
February 19, 2021

Legend

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Target 1 =

Target 2 =

State A =

External Sale Assets =

Dear :

This letter responds to a letter dated June 17, 2020, requesting rulings on certain federal income tax consequences of a series of transactions (the “**Proposed Transaction**,” as defined below). The material information submitted in that request and subsequent correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

### Summary of Facts

Parent is the common parent of an affiliated group of corporations that join in the filing of a consolidated US federal income tax return. Parent owns all of the stock of Sub 1, a State A corporation.

Sub 1 owns all of the stock of Sub 2 and Sub 3, both State A limited liability companies treated as corporations for US federal income tax purposes.

Sub 2 owns all of the stock of Target 1, a State A limited liability company treated as a corporation for US federal income tax purposes.

Sub 3 owns all of the stock of Target 2, a State A limited liability company treated as a corporation for US federal income tax purposes.

Through wholly owned subsidiaries, Sub 2 and Sub 3 indirectly own the assets that comprise the External Sale Assets.

### Proposed Transaction

Parent has entered or will enter into agreement(s) with one or more unrelated taxpayers (“**Buyer**”) to sell the External Sale Assets to Buyer in fully taxable transactions. Parent has engaged or will engage in the following series of transactions (such transactions, each a “**Step**”, collectively comprise the “**Proposed Transaction**”):

- (i) As a condition precedent to the closing of the External Sales (as defined below), Sub 2 will distribute all of the issued and outstanding stock of Target 1 to Sub 1 (the “**Target 1 Distribution**”), and Sub 3 will distribute all of the issued and outstanding stock of Target 2 to Sub 1 (the “**Target 2 Distribution**”).
- (ii) Sub 1 and Sub 2 will jointly file an election under section 336(e) (a “**Section 336(e) Election**”) with respect to the Target 1 Distribution, and Sub 1 and Sub 3 will jointly file a Section 336(e) Election with respect to the Target 2 Distribution.
- (iii) Sub 1 will sell all of the issued and outstanding stock of Sub 2 and Sub 3 to Buyer in fully taxable transactions (the “**Sub 2 Sale**” and “**Sub 3 Sale**”, and together, the “**External Sales**”). No section 338 election will be made with respect to either the Sub 2 Sale or Sub 3 Sale.

Sub 2 and Sub 3 (as the distributors in the Target 1 Distribution and Target 2 Distribution) are collectively referred to as the “**Distributing Companies**”, and each is referred to as a “**Distributing Company**”; Target 1 and Target 2 (as the target/distributed entity in the Target 1 Distribution and Target 2 Distribution, respectively) are collectively referred to as the “**Targets**”, and each is referred to as a “**Target**”; the Target 1 Distribution and Target 2 Distribution are collectively referred to as the “**Target Distributions**”, and each is referred to as a “**Target Distribution**”.

### Representations

Parent makes the following representations with respect to the Proposed Transaction:

- (a) Without taking into account the ownership of the Distributing Companies by Sub 1 prior to the Target Distributions and the External Sales, each Target Distribution will satisfy all of the statutory and regulatory requirements to qualify as a qualified stock disposition with respect to which a Section 336(e) Election is available.
- (b) Immediately after the External Sales, Buyer will own 100 percent of the issued and outstanding stock of the Distributing Companies, and neither Sub 1 nor any person whose ownership would be attributed to Sub 1 under section 318(a) or section 267(f) (applied by substituting 20 percent for 50 percent) will own any stock of any Distributing Company.

- (c) No Distributing Company will retain any significant power, right, or continuing interest, within the meaning of section 1253(b)(2), in the assets of any Target after the Target Distributions.
- (d) In each Target Distribution, “old” Target (referring to Target for periods ending on or before the close of the date of the Target Distribution) will not retain any significant power, right, or continuing interest, within the meaning of section 1253(b)(2), in the assets of “new” Target (referring to Target for periods subsequent to the date of the Target Distribution).
- (e) Excluding Step (iii), the Proposed Transaction will not include any contingent payments.
- (f) No qualified property as described in section 168(k)(2) or Treas. Reg. § 1.168(k)-2(b) has been, or will be, transferred in connection with the Target Distributions.

### **Rulings**

Based solely on the information submitted and representations made, we rule as follows:

- (1) Each Target Distribution constitutes a qualified stock disposition (as defined in Treas. Reg. § 1.336-1(b)(6)) with respect to which a Section 336(e) Election may be made.
- (2) Assuming a Section 336(e) Election is made with respect to each Target Distribution, the deemed sale of Target’s property, including its trademarks and trade names, pursuant to the Section 336(e) Election will not be treated as a transfer described in section 1253(a).
- (3) Assuming a Section 336(e) Election is made with respect to each Target Distribution, the anti-churning rules of section 197(f)(9) will apply to any goodwill, going concern value, or other section 197 intangible deemed transferred pursuant to such election. Accordingly, any such section 197 intangible that is described in section 197(f)(9) and Treas. Reg. § 1.197-2(h) is not an amortizable section 197 intangible.

### **Caveats**

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Proposed Transaction under any provision of the Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from, the Proposed Transaction that is not specifically covered by the above rulings.

### **Procedural Statements**

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

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Katherine Zhang  
Senior Counsel, Branch 5  
Office of Associate Chief Counsel (Corporate)

cc: